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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/726,952

12/03/2003

Roy Schoenberg

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05/27/2010

King & Spalding LLP (Trizetto Customer Number)

ATTN: Dawn-Marie Bey

1700 Pennsylvania Avenue N.W. Suite 200

Washington, DC 20006

EXAMINER

SHIFERAW, ELENI A

ART UNIT

PAPER NUMBER

2436

NOTIFICATION DATE

DELIVERY MODE

05/27/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jpaolletta-bald@kslaw.com

dbey@kslaw.com

mblasik@kslaw.com

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/726,952	<b>Applicant(s)</b> SCHOENBERG, ROY	
	<b>Examiner</b> ELENI A. SHIFERAW	<b>Art Unit</b> 2436	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 May 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-22, 24-28, and 30-38, 40 and 44.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Eleni A Shiferaw/  
 Primary Examiner, Art Unit 2436

Continuation of 11. does NOT place the application in condition for allowance because: THE 112 1ST REJECTION TO CLAIMS 30-36 IS MAINTAINED SINCE THE CLAIMS (CLAIM 30 LAST LIMITATION) RECITES THE UNSUPPORTED LIMITATION. The examiner withdraws the 112 1st paragraph rejection in view of applicants CANCELED claims 39 and 41-43.

Regarding argument the obviousness type double patenting claims 2 and 5 not disclosing generating second level access of the first level access key, is certainly not persuasive because 10726423 does recite the generation of the second level access of the first level access key. The claims on 10726423 recite generating a first key that grants a patient-defined level of access to a first set of medical records, generating a second access key that grants a second set of medical records, wherein the first and second keys are associated (see claims 1, 2, 3, and 5). It would have been obvious to one ordinary skill in the art to understand clearly that these limitations are equivalent as argued and rejected before.

Regarding argument the references failure to teach "generating a second-level access key ... by modifying the level of access of the first access key" argument is not persuasive because Kohane et al. discloses the patient is controlling his own medical record (portion or all) by modifying and providing different roles/rights to different agents/doctors/health institutes (see par. 46-61, and 13). Kohane et al. further teaches the document owner i.e. the patient/creator/individual (par. 37, 40, and 5-8) selecting confidential/medical records of his own and controlling the selected portions of his own medical record (par. 49-55) by providing different tokens to different health institutions and doctors (par. 7, and 49-53) by specifying access rights/roles (see par. 55-61 and fig. 3-6B). However Kohane et al. fails to explicitly disclose generating the second-level key by modifying the first level key.

Knapton, III discloses that generation of a password from first and second key (see col. 2 lines 24-43) and further discloses that password is generated from different information (see col. 2 lines 24-43). The examiner sufficiently provided motivation to combine references AND CLEAR articulation of the reasons why the claims are obvious. It is obvious to generate a second key from almost everything as also the argued limitation is disclosed in Knapton and/or the combination of the references teach every single limitation recited.